

Congress of the United States

Washington, DC 20510

May 5, 2017

The Honorable Scott Pruitt
Administrator
Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Ave, N.W.
Washington, DC, 20460

Dear Mr. Pruitt:

We write to urge the Environmental Protection Agency fulfill its statutory duty to study environmental impacts of the Renewable Fuel Standard (RFS) pursuant to 42 U.S.C. § 7545 note and 42 U.S.C. § 7545(v)(1)-(2) (Sec. 204 of the Clean Air Act). The EPA is required to produce an assessment and report to Congress every three years on the environmental and resource conservation impacts of the RFS to date as well as any likely future impacts. Specifically, the law requires the triennial report to include assessments of water quality and quantity, soil quantity and conservation, ecosystem health and biodiversity, invasive species, impacts on forests, grasslands, and wetlands, and international impacts. In addition, the EPA is required to produce an anti-backsliding study to determine whether the RFS's required renewable fuel volumes adversely impact air quality.

The EPA was late in publishing its first triennial report, which was due in December 2010, but not issued until December 2011. In the report, the EPA recommended that future assessments "inform and design implementation of monitoring strategies and measures for evaluating impacts ... provide the scientific bases for regulatory agencies and the biofuel industry to make environmentally conscious decisions."

Under the statute, the second report was due no later than December 2013 and the third, December 2016; neither has been completed. Also, EPA is required to complete an "anti-backsliding" study within 18 months of the law's passage to determine whether the renewable fuel volumes set by the Standard will adversely impact air quality, and based on the results of the study implement appropriate measures to mitigate any adverse impacts on air quality.

To date, EPA has not conducted the required anti-backsliding analysis, nor has it determined (based on an anti-backsliding study) if mitigation measures are necessary to prevent or reduce adverse air quality impacts. Although EPA recently made a commitment to complete the anti-backsliding study by September 2024, a 15-year delay of the Administrator's duty disregards the purpose of the reporting requirements – to inform EPA's annual RFS volume development and to

make Congress aware of the program's environmental impacts, which may differ from what Congress expected or intended when it passed the legislation creating the RFS.

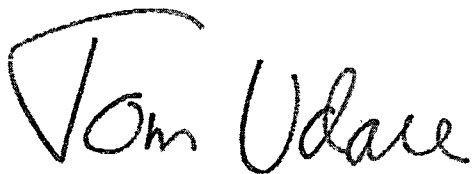
The EPA's Office of the Inspector General included these missed reporting deadlines in an August 2016 report. As a result, the EPA committed to complete an assessment of environmental impacts of the RFS by December 31, 2017, and an anti-backsliding report by September 30, 2024. The 7-yr and 15-yr delays of these report also fall far short the purpose of the reporting requirements.

These delays are especially concerning given that the first report found that the environmental impacts of the policy were "negative but limited in magnitude" and largely the result of increased corn production. Since that report, the amount of corn ethanol required under the RFS has increased by a third. During that time, there has been significant additional scientific research into land conversion and other environmental impacts, some of which point to even greater negative outcomes than what was captured in the First Triennial Report to Congress.

Ethanol production in the United States has nearly quadrupled, from 3.9 billion gallons in 2005 to 15 billion gallons in 2016; biodiesel has grown from 0.1 billion gallons to more than 1 billion gallons in the same timeframe. Given this growth, we are concerned that congressionally mandated analysis of potentially harmful environmental impacts of the RFS has gone uncompleted.

We request that the EPA take immediate action in completing an environmental assessment of the Program, including an analysis of the potential impacts of the program on emissions, land use change, and biodiversity. Please update us on the Agency's plans to do so and status of these required reports.

Sincerely,

A handwritten signature in black ink that reads "Tom Udall". The signature is fluid and cursive, with the first name "Tom" being more prominent than the last name "Udall".

Tom Udall
United States Senator

A handwritten signature in black ink that reads "Peter Welch". The signature is cursive and somewhat stylized, with the first name "Peter" being more prominent than the last name "Welch".

Peter Welch
Member of Congress